

## **MINUTES**

### **MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON ENERGY AND TELECOMMUNICATIONS**

**Call to Order:** By **CHAIRMAN MACK COLE**, on March 6, 2001 at 3:00 P.M., in Room 317-C Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Mack Cole, Chairman (R)  
Sen. Royal Johnson, Vice Chairman (R)  
Sen. Alvin Ellis Jr. (R)  
Sen. Mike Halligan (D)  
Sen. Walter McNutt (R)  
Sen. Don Ryan (D)  
Sen. Corey Stapleton (R)  
Sen. Mike Taylor (R)  
Sen. Tom Zook (R)

**Members Excused:** Sen. Steve Doherty (D)  
Sen. Bea McCarthy (D)

**Members Absent:** None.

**Staff Present:** Todd Everts, Legislative Branch  
Misti Pilster, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HJ 13, 3/1/2001; HJ 14,  
3/1/2001; HJ 20, 3/1/2001; HJ  
22, 3/1/2001  
Executive Action: None

#### **HEARING ON HJ 13**

**Sponsor:** REPRESENTATIVE MERLIN WOLERY, HD 90, Rudyard

**Proponents:** Pam Langley, Montana Agribusiness Assn.  
Ralph Peck, Montana Department of Agriculture

**Bob Stevens, Montana Grain Growers**  
**John Semple, Montana Aerial Applicators**  
**Sarah Carlson, Montana Assn. Of Conservation**  
**Districts**  
**Lorna Karn, Montana Farm Bureau**

**Opponents: None**

**Opening Statement by Sponsor:**

**REPRESENTATIVE MERLIN WOLERY, HD 90, Rudyard,** stated that low commodity prices and sky-rocketing fuel prices are forcing Montana's agricultural producers to purchase crop protection products for their crops at 15-25% higher than their Canadian neighbors. The resolution tries to urge the Environmental Protection Agency (EPA) to accept registration data currently tested by Canadian officials.

**Proponents' Testimony:**

**Pam Langley, Montana Agribusiness Assn.,** submitted written testimony, **EXHIBIT(ens51a01)**.

**Ralph Peck, Montana Department of Agriculture,** noted that pesticide harmonization issues are extremely important to Montana agriculture and urged the committee's support.

**Bob Stevens, Montana Grain Growers,** reiterated the difference in price of some chemicals across the border.

**John Semple, Montana Aerial Applicators,** supported the resolution.

**Sarah Carlson, Montana Assn. Of Conservation Districts,** voiced support of the legislation.

**Lorna Karn, Montana Farm Bureau,** urged a "do pass" recommendation.

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**SENATOR ALVIN ELLIS** was disappointed that the resolution didn't directly address livestock vaccinations and wondered what was being done in that area. **Ralph Peck** declared that they are trying to work with the U.S. Veterinarians Association to deal

with those issues. **REPRESENTATIVE WOLERY** stated that he would not be opposed to an amendment addressing livestock vaccinations.

**SENATOR MIKE HALLIGAN** questioned the perception of whether the U.S. is lowering standards on chemicals to meet Canadian requirements and having lower quality products. **Mr. Peck** stated that the challenge his department has is to work with the EPA and Ag Canada. When an agricultural chemical company knows what the standards are in both the U.S. and Canada, they can design their registration and research so it will meet both requirements. If both countries can work out a negotiation as to what the standards should be, those issues can be resolved and a North American market for agricultural chemicals can be established.

**SENATOR TOM ZOOK** wondered if the legislature could add the livestock portion, without lousing up the resolution. **Mr. Peck** hypothesized that an amendment could be drawn up that would address those concerns.

**SENATOR ROYAL JOHNSON** asked if there was someone who patrolled the border between the U.S. and Canada. **Mr. Peck** didn't believe that position exists anymore.

**SENATOR COREY STAPLETON** wanted an explanation of the phrase "dominating premium markets" on page 1, line 19. **REPRESENTATIVE WOLERY** responded that it refers to the high quality of wheat which is known throughout the world. **SENATOR STAPLETON** was curious as to the necessity of having the phrase in the resolution. **REPRESENTATIVE WOLERY** exclaimed that if producers could afford certain products and used them better, we could dominate the world market. **SENATOR STAPLETON** wondered whether Canadian pesticides were as safe or effective as American products. **REPRESENTATIVE WOLERY** elaborated that there are 10 or 12 main products used here. Pesticides in Canada are practically the same as they are here, although there might be a slight difference. For example, Roundup is a different color in Canada.

**SENATOR ELLIS** desired to know if Canadian farmers raise Hard Red Winter and Hard Red Spring wheat, just as Montanans do.

**REPRESENTATIVE WOLERY** replied that they raise nearly the same crops, but didn't think anyone raised as high of quality wheat as Montana does thanks to our weather conditions.

**Closing by Sponsor:**

**REPRESENTATIVE WOLERY** didn't have any problem with including livestock in the resolution as long as it would fit with the title of the bill. The harmonization of crop protection products between Canada and the U.S. will not only help Montana farmers,

but also the people who sell the products and services to the farmers and ranchers.

**HEARING ON HJ 14**

**Sponsor:** REPRESENTATIVE AUBYN CURTISS, HD 81, Fortine

**Proponents:** Cary Hegreberg, Montana Wood Products Assn.  
Russ Ritter, Montana Resources  
Mike Murphy, Montana Water Resources Assn.

**Opponents:** Don Steinman, Self

**Opening Statement by Sponsor:**

REPRESENTATIVE AUBYN CURTISS, HD 81, Fortine, noted that legislators have been trying to find a place in the loop where they can have a spot in the decision making with regard to river governance. There is compelling interest to maintain our cost base hydro rates that are based on Bonneville Power Administration's (BPA) or AvistaCorp's sale of the power generated by several dams on the Columbia River. She submitted various information, including the Legislative Council on River Governance, **EXHIBIT(ens51a02)**, **EXHIBIT(ens51a03)**, **EXHIBIT(ens51a04)**, **EXHIBIT(ens51a05)**, **EXHIBIT(ens51a06)**.

**Proponents' Testimony:**

Cary Hegreberg, Montana Wood Products Assn., adjured that every day, the intensity of the issue and the need for affordable electric power continues to escalate. A number of his member companies, as well as other industrial firms around the state, are scrambling to find a way of surviving. This resolution sends the appropriate message to the federal government on how to manage our hydro facilities, which were originally built for the purpose of supporting affordable electricity and irrigation in the northwest states.

Russ Ritter, Montana Resources, professed that one of the most basic sources of electricity is hydroelectric power. He voiced support of the legislation.

Mike Murphy, Montana Water Resources Assn., supported the resolution.

**Opponents' Testimony:**

**Don Steinman, Self**, opposed the bill because he didn't believe it to be a solution. He read several newspaper articles dealing with electricity and deregulation.

**Questions from Committee Members and Responses:**

**SENATOR HALLIGAN** wondered what the sponsor meant by the "natural resources in the Columbia River Basin" on page 1, line 10.

**REPRESENTATIVE CURTISS** cited that almost all of the natural resources in the Basin are dependent on what happens with river governance. This legislation is to preserve the low cost hydro benefits to the region. When BPA went into the power selling business, they basically had a mandate from the federal government to market the government-generated hydro. The beneficiaries of the low cost hydro were cooperatives, irrigators, and some of the aluminum plants. That is primarily why the river governance committee was formed to protect those benefits for use in the region. There is a northeast coalition of people who would like to capture the low cost hydro. **SENATOR HALLIGAN** felt that the statement was a little broad.

**REPRESENTATIVE CURTISS** believed that the utilization of the resources will be dependent upon decisions relative to river governance.

**Closing by Sponsor:**

**REPRESENTATIVE CURTISS** reiterated that the resolution was not about deregulation, but rather retaining the cost base power for the region.

**HEARING ON HJ 20**

**Sponsor:** **REPRESENTATIVE AUBYN CURTISS, HD 81, Fortine**

**Proponents:** **Al Kington, Montana Forest County Coalition**  
**Jim Mockler, Montana Coal Council**  
**Mike Murphy, Montana Water Resources Assn.**  
**Cary Hegreberg, Montana Wood Products Assn.**  
**Russ Ritter, Montana Resources**

**Opponents:** **Don Steinman, Self**

**Opening Statement by Sponsor:**

**REPRESENTATIVE AUBYN CURTISS, HD 81, Fortine**, declared that this was a dual purpose resolution to address two major issues faced by the legislature. These include the critical need for

reliable, low cost energy for Montana and the need for economic development.

**Proponents' Testimony:**

**Al Kington, Montana Forest County Coalition**, brought up three things in the forest industry that are controlling the destiny of 80% of the state's sawmills. These include energy, timber supply, and markets. It is very important that Powder River coal and other available natural resources in Montana are identified in this resolution.

**Jim Mockler, Montana Coal Council**, expounded that Montana is home to the largest coal reserves in the U.S. He urged the committee's support.

**Mike Murphy, Montana Water Resources Assn.**, expatiated that this legislation will try to encourage competition. He supported the resolution.

**Cary Hegreberg, Montana Wood Products Assn.**, declared that it was unclear as to what role the federal government would or could play. For every reason to build new electric generation facilities, there are multiple reasons not to.

**Russ Ritter, Montana Resources**, was in favor of the legislation. It makes good sense to use the natural resources we have to develop what we need.

**Opponents' Testimony:**

**Don Steinman, Self**, opposed the bill because he believed new generation is not the solution. He read several newspaper articles.

**Questions from Committee Members and Responses: None**

**Closing by Sponsor:**

**REPRESENTATIVE CURTISS** submitted a map of the Ashland area coal resource and other coal information, **EXHIBIT(ens51a07)**, **EXHIBIT(ens51a08)**. Montana oversees the mineral rights to approximately 560 million tons of super compliant coal. If a new coal fired generator were to be built at the mine mouth, it would provide 752,000 jobs. The remaining 360 million tons could be sold to midwest coal fired generating plants. If the coal severance tax is calculated at 70%, it would mean \$476 million for the state with the price of coal at \$5 per ton at the mine mouth. The other super compliant Powder River coal deposits

could be marketed to the midwest with the completion of the Tongue River Railroad. This resolution says there is a need for more generation in Montana, we have the resources to meet that need, and we need cooperation.

**HEARING ON HJ 22**

**Sponsor:** REPRESENTATIVE AUBYN CURTISS, HD 81, Fortine

**Proponents:** Cary Hegreberg, Montana Wood Products Assn.  
Al Kington, Montana Forest County Coalition  
Russ Ritter, Montana Resources  
Don Steinman, Self

**Opponents:** None

**Opening Statement by Sponsor:**

REPRESENTATIVE AUBYN CURTISS, HD 81, Fortine, stated that the resolution was a result of an April 1999 report issued by the General Accounting Office which stated the most extensive and serious problem related to national forest health is the accumulation of fuel build-up which has caused an increasing number of large, uncontrollable, and catastrophically destructive wildfires.

**Proponents' Testimony:**

Cary Hegreberg, Montana Wood Products Assn., noted that the resolution was devised by the Western Forestry Legislative Task Force. The goal is to get the legislation passed in all of the western states. Hopefully, it can then be taken to the Western Governors Association and be used as a cohesive plan to take to the new Bush administration. He was perplexed that the Forest Service is largely planning to deal with its fire problems by hiring more fire fighters.

Al Kington, Montana Forest County Coalition, declared that he had been in the forestry industry in the state for 35 years and knew the build-up of fuel was coming. The management of forest land has been neglected for several years. He would change "immediately implement" on page 2, line 25 to "aggressively pursue."

Russ Ritter, Montana Resources, applauded the sponsor and supported the resolution.

**Don Steinman, Self**, declared that Montana's forest and building industries need uplifting. The state's infrastructure is heavily dependent on forestry and agriculture.

**Opponents' Testimony: None**

**Questions from Committee Members and Responses:**

**SENATOR ELLIS** asked **Cary Hegreberg** how familiar he was with the position of the Secretary of Interior dealing with this issue. **Mr. Hegreberg** said that as a forest products industry, they are certainly hopeful that the new administration will take a more aggressive stance toward the active management of forests. There has been an initial willingness by the federal agencies to work together. This resolution will have a positive effect on moving the administration in the right direction by showing some cohesiveness among the western states. **SENATOR ELLIS** wanted to know whether the western states had specific ordinances in their constitution to allow for federal lands. **Mr. Hegreberg** wasn't aware of which states were currently deliberating the resolution.

**Closing by Sponsor:**

**REPRESENTATIVE CURTISS** proclaimed that there are over 250 million board feet of damaged timber which has been cut and can't be sold by the Forest Service. There is a real need to utilize that timber before it goes to waste. In order to meet the original mandate of the Forest Service to protect the national forests from fire, a sustainable supply of timber, water, goods, and services must be provided. The resolution urges the agencies to utilize an appropriate mix of fire suppression activities and forest management methodologies. These include selective thinning, selective harvesting, grazing, removal of excessive ground fuel, small scale prescribed burns, and increased use of private, local, and state contracts on general forest lands.

**EXECUTIVE ACTION ON HJ 14**

**Motion/Vote:** **SENATOR ELLIS** moved that **HJ 14 BE CONCURRED IN.**  
**Motion carried unanimously.**

**EXECUTIVE ACTION ON HJ 20**

**Motion:** **SENATOR JOHNSON** moved that **HJ 20 BE CONCURRED IN.**



**Substitute Motion/Vote:** SENATOR HALLIGAN made a substitute motion that HJ 20 BE TABLED. Substitute motion failed 5-6 with Doherty, Halligan, McCarthy, Ryan, and Stapleton voting aye.

**Vote:** Motion carried 6-5 with Doherty, Halligan, McCarthy, Ryan, and Stapleton voting no.

**EXECUTIVE ACTION ON HJ 22**

**Motion/Vote:** SENATOR ZOOK moved that HJ 22 BE CONCURRED IN. Motion carried 10-1 with Ryan voting no.

**ADJOURNMENT**

Adjournment: 4:45 P.M.

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SEN. MACK COLE, Chairman

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MISTI PILSTER, Secretary

MC/MP

**EXHIBIT** (ens51aad)